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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,700	03/04/2002	Mikko Makipaa	4208-4076	2805
27123	7590	01/17/2007	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			LASTRA, DANIEL	
		ART UNIT	PAPER NUMBER	
		3622		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/17/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/086,700	MAKIPAA, MIKKO
	<b>Examiner</b>	<b>Art Unit</b>
	DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 October 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. Claims 1-29 have been examined. Application 10/086,700 (METHOD AND SYSTEM FOR PROVIDING CONTENT ITEMS TO USERS) has a filing date 03/04/2002

**Response to Amendment**

2. In response to Non Final Rejection filed 08/11/2006, the Applicant filed an Amendment on 10/30/2006, which added new claims 28 and 29.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 5-12 and 15-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halbert (US 6,101,484) in view of Carver (US 2004/0010592).

As per claims 1, 11 and 21, Halbert teaches:

A method of providing a content item to a plurality of user devices, comprising:

defining a collective earning threshold (see column 7, lines 50-62 “minimum offer threshold” and col 8, lines 35-60; “acceptable gross margin”);  
receiving a total collective payment from the plurality of user devices, wherein the total collective payment includes a plurality of individual user payments that are each

contributed by a respective one of the plurality of user devices (see column 3, lines 3-25);

evaluating the received total collective payment with respect to the collective earning threshold (see col 7, line 50 – col 8, line 60; col 9, lines 35-45; the collective earning threshold would be the acceptable gross margin to accept offers);

Halbert fails to teach transmitting the content item at a premium quality level when the received total collective payment is greater than or equal to the collective earning threshold and transmitting the content item at an impaired quality level when the received total collective payment is less than the collective earning threshold. However, Carver teaches a system where more than one user contribute to the cost of downloading data and where the quality of said downloading is directly proportional to the amount of said contribution (see Carver paragraphs 85, 155, 252, 277, 299, 307-310, 319). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download said data at different service levels (i.e. normal service, low jitter service, low latency service; paragraph 277) or different data rates (i.e. 2 Mbps or 1 Mbps; see Carver paragraph 310), as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission (i.e. 2 Mbps instead of 1 Mbps) for a lower fee.

As per claims 2 and 12, Halbert and Carver teach:

The method of claim 1, wherein the step of defining a collective earning threshold comprises selecting a threshold value from a time-varying threshold function (see Halbert column 7, line 55 - column 8, line 15). In Halbert the price of adjustment of threshold values are time dependent (see col 8, lines 30-40).

As per claims 5 and 15, Halbert and Carver teach:

The method of claim 1, teach wherein the step of transmitting the content item at a downgraded quality comprises reducing the resolution of images included in the content item. The same argument made in claim 1 regarding the quality of transmission is also made in claim 5.

As per claims 6 and 16, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises reducing the size of one or more images included in the content item. The same argument made in claim 1 regarding this missing limitation is also made in claim 6.

As per claims 7 and 17, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises increasing the distortion of audio signals included in the content item. The same argument regarding the quality of transmission made in claim 1 is also made in claim 7.

As per claims 8 and 18, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises interrupting transmission of the content item. Carver teaches

interrupting transmission of content if users offers do not meet a threshold amount (see paragraph 155). Therefore, the same argument made in claim 1 regarding this missing limitation is also made in claim 8.

As per claims 9 and 19, Halbert and Carver teach:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total collective payment is less than the collective earning threshold (see Halbert column 8, lines 60-67).

As per claims 10 and 20, Halbert and Carver teach:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total collective payment is within a predetermined range of the collective earning threshold (see Halbert column 8, lines 62-67).

As per claims 22, 24, 25 and 26 Halbert teaches:

A method of providing a content item to a plurality of users, comprising:

defining a collective earning threshold (see column 7, lines 50-62 "minimum offer threshold");

receiving a total collective payment from the plurality of users, wherein the total collective payment includes a plurality of individual user payments that are each contributed by a respective one of the plurality of users (see column 3, lines 3-25);

evaluating the received total collective payment with respect to the collective earning threshold (see col 7, line 50 – col 8, line 60; col 9, lines 35-45); and

Halbert fails to teach scheduling the content item for transmission when the received total collective payment is greater than or equal to the collective earning threshold. However, Carver teaches scheduling the transmission of data when users collective contribution is greater than a threshold (see paragraph 315). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download said data at different service levels (i.e. normal service, low jitter service, low latency service; see paragraph 277; 2 Mbps; paragraph 310), as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission (i.e. 2 Mbps instead of 1 Mbps) for a lower fee.

As per claim 23, Halbert fails to teach:

The method of claim 22, further comprising the step of identifying a stale payment when the total collective payment is less than the collective earning threshold and providing a content item reselection opportunity to the user that placed the stale payment. However, Carver teaches a system that allows buyers to modify bids and send the modify bid which includes the bid identifier of the original bid (see paragraph 210). Therefore, in Carver the old bids can be construed as stale payment which were waiting to be accepted but were not accepted because said old bids did not meet a threshold (see paragraph 153). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Halbert would

allow bids to stale if said bids do not meet the collective payment threshold, as taught by Carver in order to give buyers an opportunity to resubmit said bids with new parameters.

As per claim 27, Halbert and Carver teach:

A wireless communications device for receiving a content item from a content provider, the wireless communications device comprising:

means for selecting a content item from a list of content item offerings provided by the content provider (see column 9, lines 10-20);

means for sending an individual user payment for the selected content item to the content provider (see column 9, lines 10-20);

means for receiving a revenue indicator from the content provider, the revenue indicator indicating a comparison between a total collective payment and a collective earning threshold (see column 8, lines 5-60), wherein the total collective payment includes the individual user payment and one or more payments from other communication devices (see column 8, lines 5-60); and

Halbert fails to teach means for receiving the selected content item from the content provider in a manner that is determined by the comparison between the total collective payment received by the content provider and the collective earning threshold. However, Carver teaches a system where more than one user contribute to the cost of downloading data and where the quality of said downloading is directly proportional to the amount of said contribution (see Carver paragraphs 85, 155, 252, 277, 299, 307-310, 319). Therefore, it would have been obvious to a person of ordinary

skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download data at different service levels (i.e. normal service, low jitter service, low latency service)<sup>1</sup>, as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission for a lower fee. Halbert does not teach wireless communication devices. However, Official Notice is taken that it is old and well known in the computer art to wirelessly communicate via the Internet or TV. Wireless transmission mode would not patentably distinguish the claimed invention from the prior art.

Claim 28, Halbert fails to teach:

The method according to claim 1, wherein when the received total collective payment is greater than or equal to the collective earning threshold the transmitting broadcasts the content item at a premium quality level to the plurality of users devices, and when the receive total collective payment is less than the collective earning threshold the transmitting broadcasts the content item at an impaired quality level to the plurality of user devices. However, Carver teaches a system where more than one user contribute to the cost of downloading data and where the quality of said downloading is directly proportional to the amount of said contribution (see Carver paragraphs 85, 155, 252, 277, 299, 307-310, 319). Carver continuously monitor the amount of bidding provided by users every certain amount of times (i.e. 6 seconds) and if the collective

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<sup>1</sup> Carver paragraph 277

payment or biddings of said users is below a threshold (i.e. 3 cents per minute; see paragraphs 311, 316), Carver terminates the session or as an alternative, since the user's bid may be part of a shared bid and the other contributor to the bid may have a maximum offer sufficiently high to permit the session to be maintained or possibly reduced to a lower bandwidth allocation (see paragraph 299). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download said data at different service levels (i.e. normal service, low jitter service, low latency service or 2Mbps or 1 Mbps; paragraphs 277 and 310), as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission (i.e. 2 Mbps instead of 1 Mbps) for a lower fee.

Claim 29, Halbert fails to teach:

The method according to claim 1, wherein the content item is transmitted from a content provider of the content item, and the content provider controls transmission of the content item at a premium or impaired quality level therefrom. However, Carver teaches a website host server which controls the transmission of the content item at different quality level based upon the collective payment of users (see Carver paragraph 94). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Halbert's ecommerce server (see col 5, lines 10-20) would function as a website host, which would control the delivery of services at different qualify levels based upon the collective payment of users for said

services, as taught by Carver in order that users can share the cost of receiving content at a higher quality level from a network.

4. Claims 3, 4, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halbert (US 6,101,484) in view of Carver (US 2004/0010592) and further in view of Walker (US 6,206,782) and Managing Creativity (Dialog: File 15:00618252).

As per claims 3 and 13, Halbert fails to teach:

The method of claim 1, further comprising the step of awarding a prize to one or more users according to a prize criterion. However, Carver teaches a system that permits that one or more users contribute towards the cost of downloading data and where each user can contribute a different percentage to said cost of said downloading (see Carver paragraph 308). Walker teaches a system that rewards members of a team based upon the amount of money contribution by a particular member during a given time period (see col 8, lines 20-30) and Managing Creativity teaches that it is old and well known in the promotion art to give bigger rewards to the person that contributed the most to a goal (see paragraph 20). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Halbert would give a bigger award to a buyer that contributed the most to the goal of receiving a content item at a premium quality level, as taught by Carver in order that said buyer has an incentive to share the bigger part in the cost of downloading data to a group of buyers at a premium quality level.

As per claims 4 and 14, Halbert and Carver teach:

The method of claim 3, wherein the awarding step comprises awarding a prize to the user that has contributed the largest of the individual user payments. The same argument made in claim 3 regarding this limitation is also made in claim 4.

### **Response to Arguments**

5. Applicant's arguments filed 10/30/2006 have been fully considered but they are not persuasive. The Applicant argues that the evaluation of binding offers of Halbert and Carver is different than the evaluation of received payments (e.g. actual payments). The Examiner answers that Halbert's bidding offers are binding non-cancelable offers to purchase products within a price range and where each said offers are guaranteed by the respective buyer's credit card at the time said offers are presented (see Halbert col 4, lines 40-50). Also, Carver's bidding offers are binding offers that are linked to the buyer's credit card at the time said offers are offered (see Carver paragraph 252). Therefore, contrary to Applicant's argument, Halbert and Carver's offers are actual payments offers.

The Applicant argues that Carver relates simply to bandwidth allocation and not the quality level of the content item which is transmitted. The Examiner answers that Applicant's specification defines the term "quality level" as the "amount of enjoyment an end-user can derive from the content item" (see Applicant's specification paragraph 76). Carver teaches a system where buyers share the cost of receiving a transmission at a higher data rate (i.e. 2 Mbps, 1 Mbps; see paragraph 310) and where the higher the data rate, the higher the quality experience of the requested content (see Carver paragraph 85). Therefore, contrary to Applicant's argument, Carver teaches transmitting

a content at different quality levels where more than one party can contribute to the cost of the data transmission (see Carver paragraph 319).

The Applicant argues that Halbert does not teach a selection of a time varying threshold function. The Examiner answers that in Halbert, the price of adjustment of threshold values are time dependent (see col 8, lines 30-40). Therefore, contrary to Applicant's argument, Halbert teaches Applicant's limitation.

The Applicant argues that it is unclear how the services of normal services, low jitter service and low latency service teach reduction of the resolution of images included in the content item or reduction of the size of one or more images included in the content item or increase of the distortion of audio signals included in the content item. The Examiner answers that Carver teaches that the rate that data is transmitted (*i.e.* 2 Mbps or 1 Mbps) is related to the quality experience of the requested audio video clip (see Carver paragraph 85). Therefore, the higher the data rate, the less the distortion or the bigger the size of a video image as there is more allocated bandwidth to receive a better transmission. Therefore, contrary to Applicant's argument, Carver teaches Applicant's limitation.

### Conclusion

6. Accordingly, **THIS ACTION IS MADE FINAL** due to the added new claims. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DV

Daniel Lastra  
January 4, 2007

*Retta Yehdega Repta*  
RETTA YEHDEGA  
PRIMARY EXAMINER